

Journal of the Senate

WEDNESDAY, MAY 8, 2019

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 59

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The Governor has informed the House that on May 6, 2019, he approved and signed bills originating in the House of the following titles:

H. 204. An act relating to miscellaneous provisions affecting navigators, Medicaid records, and the Department of Vermont Health Access.

H. 321. An act relating to aggravated murder for killing a firefighter or an emergency medical provider.

Message from the House No. 60

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposal of amendment to House bill of the following title:

H. 514. An act relating to miscellaneous tax provisions.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House bill entitled:

H. 511. An act relating to criminal statutes of limitations.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. LaLonde of South Burlington
Rep. Grad of Moretown
Rep. Burditt of West Rutland

Rules Suspended; Bill Committed

H. 525.

Pending entry on the Calendar for notice, on motion of Senator Pollina, the rules were suspended and House bill entitled:

An act relating to miscellaneous agricultural subjects.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Agriculture, Senator Pollina moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Finance with the report of the Committee on Agriculture *intact*,

Which was agreed to.

House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 40.

House proposal of amendment to Senate bill entitled:

An act relating to testing and remediation of lead in the drinking water of schools and child care facilities.

Was taken up.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 24A is added to read:

CHAPTER 24A. LEAD IN DRINKING WATER OF SCHOOLS AND
CHILD CARE FACILITIES

§ 1241. PURPOSE

The purpose of this chapter is to require all school districts, supervisory unions, independent schools, and child care providers in Vermont to:

(1) test drinking water in their buildings and child care facilities for lead contamination; and

(2) develop and implement an appropriate response or lead remediation plan when sampling indicates unsafe lead levels in drinking water at a school or child care facility.

§ 1242. DEFINITIONS

As used in this chapter:

(1) “Action level” means five parts per billion (ppb) of lead.

(2) “Alternative water source” means:

(A) water from an outlet within the building or facility that is below the action level; or

(B) containerized, bottled, or packaged drinking water.

(3) “Building” means any structure, facility, addition, or wing that may be occupied or used by children or students.

(4) “Child care provider” has the same meaning as in 33 V.S.A. § 3511.

(5) “Child care facility” or “facility” has the same meaning as in 33 V.S.A. § 3511.

(6) “Commissioner” means the Commissioner of Health.

(7) “Department” means the Department of Health.

(8) “Drinking water” has the same meaning as in 10 V.S.A. § 1671.

(9) “Independent school” has the same meaning as in 16 V.S.A. § 11.

(10) “Outlet” means a drinking water fixture currently or reasonably expected to be used for consumption or cooking purposes, including a drinking fountain, ice machine, or a faucet as determined by a school district, supervisory union, independent school, or child care provider.

(11) “School district” has the same meaning as in 16 V.S.A. § 11.

(12) “Supervisory union” has the same meaning as in 16 V.S.A. § 11.

§ 1243. TESTING OF DRINKING WATER

(a) Scope of testing.

(1) Each school district, supervisory union, or independent school in the State shall collect a drinking water sample from each outlet in the buildings it owns, controls, or operates and shall submit the sample to the Department of Health for testing for lead contamination as required under this chapter.

(2) Each child care provider in the State shall collect a drinking water sample from each outlet in a child care facility it owns, controls, or operates for lead contamination as required under this chapter.

(b) Initial sampling.

(1) On or before December 31, 2020, each school district, supervisory union, independent school, or child care provider in the State shall collect a first-draw sample and a second flush sample from each outlet in each building or facility it owns, controls, or operates. Sampling shall occur during the school year of a school district, supervisory union, or independent school.

(2) At least five days prior to sampling, the school district, supervisory union, independent school, or child care provider shall notify all staff and all parents or guardians of students directly in writing or by electronic means of:

(A) the scheduled sampling;

(B) the requirements for testing, why testing is required, and the potential health effects from exposure to lead in drinking water;

(C) information, provided by the Department of Health, regarding sources of lead exposure other than drinking water;

(D) information regarding how the school district, supervisory union, independent school, or child care provider shall provide notice of the sample results; and

(E) how the school district, supervisory union, independent school, or child care provider shall respond to sample results that are at or above the action level.

(3) The Department may adopt a schedule for the initial sampling by school districts, supervisory unions, independent schools, and child care providers.

(c) Continued sampling. Beginning January 1, 2021, each school district, supervisory union, independent school, or child care provider in the State shall sample each outlet in each building or facility it owns, controls, or operates for lead according to a schedule adopted by the Department by rule under section 1247 of this title.

(d) Interim methodology. Prior to adoption of the rules required under section 1247 of this title, sampling under this section shall be conducted according to a methodology established by the Department of Health, provided that the methodology shall be at least as stringent as the sampling methodology provided for under the U.S. Environmental Protection Agency's 3Ts for

Reducing Lead in Drinking Water in Schools and shall include a requirement for a first draw sample and a second flush sample.

(e) Exceptions.

(1) The testing requirements of subsection (b) of this section shall not apply to a school district, supervisory union, independent school, or child care provider that:

(A) completed testing of all outlets in each building or facility it owns, controls, or operates after November 1, 2017;

(B) conducted testing according to a methodology consistent with the Department methodology established under subsection (d) of this section; and

(C)(i) determined no outlet is at or above the action level for lead; or

(ii) implemented or scheduled remediation that ensures that drinking water from all outlets is below the action level.

(2) A school district, supervisory union, independent school, or child care provider that qualifies for the exception under subdivision (1) of this subsection shall, within 30 days of the effective date of this act, submit a written notice of exception to the Department of Health that shall include the results of testing and a summary of remediation implemented or scheduled.

(3) A school district, supervisory union, independent school, or child care provider that qualifies for the exception under subdivision (1) of this subsection shall be eligible for assistance from the State for the costs of remediation.

(f) Laboratory analysis. The analyses of drinking water samples required under this chapter shall be conducted by the Vermont Department of Health Laboratory or by a certified laboratory under contract to the Department.

§ 1244. RESPONSE TO ACTION LEVEL; NOTICE; REPORTING

If a sample of drinking water under section 1243 of this title indicates that drinking water from an outlet is at or above the action level, the school district, supervisory union, independent school, or child care provider that owns, controls, or operates the building or facility in which the outlet is located shall conduct remediation to eliminate or reduce lead levels in the drinking water from the outlet. At a minimum, the school district, supervisory union, independent school, or child care provider shall:

(1)(A) prohibit use of an outlet that is at or above the action level until:

(i) implementation of a lead remediation plan or other remediation measure that was published or approved by the Commissioner or that is

consistent with the U.S. Environmental Protection Agency's 3Ts for Reducing Lead in Drinking Water in Schools; and

(ii) sampling indicates that lead levels from the outlet are below the action level; or

(B) prohibit use of an outlet that is at or above the action level until the outlet is permanently removed, disabled, or otherwise cannot be accessed by any person for the purposes of consumption or cooking;

(2) provide occupants of the building or child care facility an adequate alternative water source until remediation is performed;

(3) notify all staff and all parents or guardians of students directly of the test results and the proposed or taken remedial action in writing or by electronic means within 10 school days after receipt of the laboratory report;

(4) submit lead remediation plans to the Department as they are completed;

(5) notify all staff and all parents or guardians or students in writing or by electronic means of what remedial actions have been taken; and

(6) submit notice to the Department of Health that remediation plans have been completed.

§ 1245. RECORD KEEPING; PUBLIC NOTIFICATION; DATABASE

(a) Record keeping. The Department of Health shall retain all records of test results, laboratory analyses, lead remediation plans, and notices of exception for 10 years following the creation or acquisition of the record. Records produced or acquired by the Department under this chapter are public records subject to inspection or copying under the Public Records Act.

(b) Public notification. On or before March 1, 2021, the Commissioner shall publish on the Department website the data from testing under section 1243 of this title so that the results of sampling are fully transparent and accessible to the public. The data published by the Department shall include a list of all buildings or facilities owned, controlled, or operated by a school district, supervisory union, independent school, or child care provider at which drinking water from an outlet tested at or above the action level within the previous two years of reported samples. The Commissioner shall publish all retesting data on the Department's website within two weeks of receipt of the relevant laboratory analysis. The Secretary of Education shall include a link on the Agency of Education website to the Department of Health website required under this subsection.

§ 1246. LEAD REMEDIATION PLAN; GUIDANCE; COMMUNICATION

(a) Consultation. When a laboratory analysis of a sample of drinking water from an outlet at a building or facility owned, controlled, or operated by a school district, supervisory union, independent school, or child care provider is at or above the action level, the school district, supervisory union, independent school, or child care provider may consult with the Commissioner regarding the development of a lead remediation plan or other necessary response.

(b) Guidance; lead remediation plan. The Commissioner, after consultation with the Secretary of Natural Resources, the Commissioner for Children and Families, and the Secretary of Education, shall issue guidance on development of a lead remediation plan by a school district, supervisory union, independent school, or child care provider. The guidance provided by the Commissioner shall reference the U.S. Environmental Protection Agency's 3Ts for Reducing Lead in Drinking Water in Schools.

(c) Communications: The Department of Health shall develop sample communications for parents for use by school districts, supervisory unions, independent schools, and child care providers concerning lead in water and reducing exposure to lead under this chapter.

§ 1247. RULEMAKING

(a) The Commissioner shall adopt rules under this chapter to achieve the purposes of this chapter.

(b) On or before November 1, 2020, the Commissioner, with continuing consultation with the Secretary of Natural Resources, the Commissioner for Children and Families, and the Secretary of Education, shall adopt rules regarding the implementation of the requirements of this chapter. The rules shall include:

(1) requirements or guidance for taking samples of drinking water from outlets in a building or facility owned, controlled, or operated by a school district, supervisory union, independent school, or child care provider that are no less stringent than the requirements of the U.S. Environmental Protection Agency's 3Ts for Reducing Lead in Drinking Water in Schools and that include a first draw sample and second flush sample;

(2) the frequency of continued sampling of outlets by school districts, supervisory unions, independent schools, and child care providers, provided that the Department:

(A) may stagger when continued sampling shall occur by school or provider, school type or provider type, or initial sampling results; and

(B) shall, to the degree practicable, maintain the same term of sampling frequency for all school districts, supervisory unions, independent schools, and child care providers;

(3) requirements for implementation of a lead mitigation plan or other necessary response to a report that drinking water from an outlet is at or above the action level;

(4) exemptions from the requirements for sampling or remediation under this chapter, including conditions or criteria for the exceptions from the sampling required under this chapter; and

(5) any other requirements that the Commissioner deems necessary for the implementation of the requirements of this chapter.

§ 1248. ENFORCEMENT; PENALTIES

In addition to any other authority provided by law, the Commissioner of Health or a hearing officer designated by the Commissioner may, after notice and an opportunity for hearing, impose an administrative penalty of up to \$500.00 for a violation of the requirements of this chapter. The hearing before the Commissioner shall be a contested case subject to the provisions of 3 V.S.A. chapter 25.

Sec. 2. 16 V.S.A. § 4001(6) is amended to read:

(6) “Education spending” means the amount of the school district budget, any assessment for a joint contract school, career technical center payments made on behalf of the district under subsection 1561(b) of this title, and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) that is paid for by the school district, but excluding any portion of the school budget paid for from any other sources such as endowments, parental fundraising, federal funds, nongovernmental grants, or other State funds such as special education funds paid under chapter 101 of this title.

* * *

(B) For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12), “education spending” shall not include:

* * *

(xi) Costs incurred by a school district or supervisory union when sampling drinking water outlets, implementing lead remediation, or retesting drinking water outlets as required under 18 V.S.A. chapter 24A.

Sec. 3. POSITIONS; SAMPLING OF DRINKING WATER OUTLETS IN SCHOOLS

The establishment of the following new classified limited service positions are authorized in fiscal year 2019:

- (1) In the Agency of Natural Resources – environmental analyst V.
- (2) In the Department of Health – public health analyst.

Sec. 3a. DEPARTMENT FOR CHILDREN AND FAMILIES; RULES FOR REGULATED CHILD CARE PROVIDERS

On or before December 31, 2020, the Commissioner for Children and Families shall amend the rules for regulated child care providers to comply with the requirements of 18 V.S.A. chapter 24A and rules adopted by the Department of Health under that chapter for the testing of lead in the drinking water of child care facilities.

Sec. 4. STATUS OF REMEDIATION OF LEAD IN SCHOOLS AND CHILD CARE FACILITIES

On or before January 15, 2020, the Commissioner of Health, after consultation with the Secretary of Natural Resources, the Commissioner for Children and Families, and the Secretary of Education, shall provide written or oral testimony to the House Committee on Education and the Senate Committee on Education regarding the implementation, administration, and financing of the requirements under 18 V.S.A. chapter 24A that schools and child care providers sample for and remediate lead in drinking water. The testimony may include recommendations for additional programmatic and technical requirements for sampling for and remediating lead in schools or child care facilities in the State.

Sec. 5. ALLOCATION OF FUNDS; REMEDIATION; ELIGIBLE COSTS

(a) For remediation required under 18 V.S.A. chapter 24A, the Department of Health shall pay a school district, supervisory union, independent school, or child care provider the actual cost of replacement of a drinking water fixture, as evidenced by a receipt submitted to the State, up to the following maximum amount for each type of fixture:

- (1) public drinking fountains and ice machines: \$2,000.00;
- (2) outlets used for cooking: \$700.00;
- (3) all other outlets: \$400.00.

(b) The State shall make payments to school districts, supervisory unions, independent schools, or child care providers under this section from one-time

funds appropriated to the Department of Health in fiscal years 2020 and 2021 for the costs of initial testing, retesting, and remediation under 18 V.S.A. chapter 24A. Funds appropriated to the Department of Health in Sec. 88 (a)(2) of H.532 of 2019 may be transferred to the State agency or department administering these payments.

Sec. 5a. Subdivision (a)(2) of 2019 Acts and Resolves No. 6, Sec. 88 is amended to read:

(2) To the Department of Health: \$2,400,000 to fund in fiscal years 2020 and 2021 testing for lead in drinking water and additional support, retesting, and replacement of drinking water fixtures in schools and child care facilities consistent with the program established in requirements in S.40 of 2019. These funds are allocated as follows:

(A) \$125,000 to fund the limited service program position established in S.40 of 2019.

(B) \$150,000 to fund program start-up and data management costs for the program.

(C) \$2,125,000 to fund the costs of initial testing and, retesting costs and to apply to tap remediation costs, and replacement of drinking water fixtures.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Baruth, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

House Proposal of Amendment Concurred In

S. 43.

House proposal of amendment to Senate bill entitled:

An act relating to prohibiting prior authorization requirements for medication-assisted treatment.

Was taken up.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 4089b is amended to read:

§ 4089b. HEALTH INSURANCE COVERAGE, MENTAL HEALTH, AND
SUBSTANCE ABUSE USE DISORDER

* * *

(b) As used in this section:

(1) “Health insurance plan” means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, except a benefit plan providing coverage for a specific disease or other limited benefit coverage. Health insurance plan includes any health benefit plan offered or administered by the State, or any subdivision or instrumentality of the State.

* * *

(c) A health insurance plan shall provide coverage for treatment of a mental condition and shall:

(1) not establish any rate, term, or condition that places a greater burden on an insured for access to treatment for a mental condition than for access to treatment for other health conditions, including no greater co-payment for primary mental health care or services than the co-payment applicable to care or services provided by a primary care provider under an insured’s policy and no greater co-payment for specialty mental health care or services than the co-payment applicable to care or services provided by a specialist provider under an insured’s policy;

(2) not exclude from its network or list of authorized providers any licensed mental health or substance abuse provider located within the geographic coverage area of the health benefit plan if the provider is willing to meet the terms and conditions for participation established by the health insurer; ~~and~~

(3) make any deductible or out-of-pocket limits required under a health insurance plan comprehensive for coverage of both mental and physical health conditions; and

(4) if the plan provides prescription drug coverage, ensure that at least one medication from each drug class approved by the U.S. Food and Drug Administration for the treatment of substance use disorder is available on the lowest cost-sharing tier of the plan’s prescription drug formulary.

* * *

Sec. 2. 18 V.S.A. § 4750 is amended to read:

§ 4750. ~~DEFINITION~~ DEFINITIONS

As used in this chapter, ~~“medication-assisted treatment”~~:

(1) “Health insurance plan” has the same meaning as in 8 V.S.A. § 4089b.

(2) “Medication-assisted treatment” means the use of U.S. Federal Food and Drug Administration-approved medications, in combination with counseling and behavioral therapies, to provide a whole patient approach to the treatment of substance use disorders.

Sec. 3. 18 V.S.A. § 4754 is added to read:

§ 4754. LIMITATION ON PRIOR AUTHORIZATION REQUIREMENTS

(a) A health insurance plan shall not require prior authorization for prescription drugs for a patient who is receiving medication-assisted treatment if the dosage prescribed is within the U.S. Food and Drug Administration’s dosing recommendations.

(b) A health insurance plan shall not require prior authorization for all counseling and behavioral therapies associated with medication-assisted treatment for a patient who is receiving medication-assisted treatment.

Sec. 4. PRIOR AUTHORIZATION FOR MEDICATION-ASSISTED TREATMENT; MEDICAID; REPORTS

On or before February 1, 2020, 2021, and 2022, the Department of Vermont Health Access shall report to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare regarding prior authorization processes for medication-assisted treatment in Vermont’s Medicaid program during the previous calendar year, including which medications required prior authorization; how many prior authorization requests the Department received and, of these, how many were approved and denied; and the average and longest lengths of time the Department took to process a prior authorization request.

Sec. 5. EFFECTIVE DATES

(a) This section and Secs. 2 (18 V.S.A. § 4750) and 4 (prior authorization for medication-assisted treatment; Medicaid; reports) shall take effect on July 1, 2019.

(b) Secs. 1 (8 V.S.A. § 4089b) and 3 (18 V.S.A. § 4754) shall take effect on January 1, 2020 and shall apply to health insurance plans on or after January 1, 2020 on such date as a health insurer issues, offers, or renews the health insurance plan, but in no event later than January 1, 2021.

And that after passage the title of the bill be amended to read:

An act relating to limiting prior authorization requirements for medication-assisted treatment.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Bill Passed in Concurrence with Proposal of Amendment

H. 13.

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to miscellaneous amendments to alcoholic beverage and tobacco laws.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 47.

House bill entitled:

An act relating to the taxation of electronic cigarettes.

Was taken up.

Thereupon, pending third reading of the bill, Senators Cummings, Balint, Brock, Campion, MacDonald, Pearson and Sirotkin moved to amend the Senate proposal of amendment by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 32 V.S.A. § 7702(15) is amended to read:

(15) "Other tobacco products" means any product manufactured from, derived from, or containing tobacco that is intended for human consumption by smoking, chewing, or in any other manner, including products sold as a tobacco substitute, as defined in 7 V.S.A. § 1001(8), and including any liquids, whether nicotine based or not, or delivery devices sold separately for use with a tobacco substitute; but shall not include cigarettes, little cigars, roll-your-own tobacco, snuff, or new smokeless tobacco as defined in this section.

Sec. 2. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

(a) There is hereby imposed and shall be paid a tax on all other tobacco products, snuff, and new smokeless tobacco possessed in the State of Vermont by any person for sale on and after July 1, 1959 which were imported into the State or manufactured in the State after that date, except that no tax shall be imposed on tobacco products sold under such circumstances that this State is

without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the U.S. Armed Forces operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. The tax is intended to be imposed only once upon the wholesale sale of any other tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except snuff, which shall be taxed at \$2.57 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of \$2.57 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of \$3.08 per package, and cigars with a wholesale price greater than \$2.17, which shall be taxed at the rate of \$2.00 per cigar if the wholesale price of the cigar is greater than \$2.17 and less than \$10.00, and at the rate of \$4.00 per cigar if the wholesale price of the cigar is \$10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all other tobacco products, snuff, and new smokeless tobacco within the State are subject to tax until the contrary is established and the burden of proof that any other tobacco products, snuff, and new smokeless tobacco are not taxable hereunder shall be upon the person in possession thereof. Licensed wholesalers of other tobacco products, snuff, and new smokeless tobacco shall state on the invoice whether the price includes the Vermont tobacco products tax.

(b) The tax established in this section shall not be imposed on marijuana-related supplies sold by a dispensary registered under 18 V.S.A. chapter 86 to registered patients and registered caregivers, as those terms are defined in 18 V.S.A. § 4472.

Sec. 3. 7 V.S.A. § 1001(8) is amended to read:

(8) “Tobacco substitute” means products, including electronic cigarettes or other electronic or battery-powered devices, that contain ~~and~~ or are designed to deliver nicotine or other substances into the body through the inhalation of vapor and that have not been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes. Products that have been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes shall not be considered to be tobacco substitutes.

Sec. 4. EFFECTIVE DATES

(a) Secs. 1 (32 V.S.A. § 7702) and 2 (32 V.S.A. § 7811) shall take effect on July 1, 2019.

(b) Sec. 3 (7 V.S.A. § 1001) and this section shall take effect on passage.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Bill Passed in Concurrence with Proposal of Amendment

H. 57.

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to preserving the right to abortion.

Bill Passed in Concurrence with Proposal of Amendment

H. 205.

House bill of the following title:

An act relating to the regulation of neonicotinoid pesticides.

Was read the third time and passed in concurrence with proposal of amendment on a roll call, Yeas 30, Nays 0.

Senator Ashe having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Balint, Baruth, Benning, Bray, Brock, Campion, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, McNeil, Nitka, Parent, Pearson, Perchlik, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Bill Passed in Concurrence with Proposal of Amendment

H. 518.

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to fair and impartial policing.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 527.

House bill entitled:

An act relating to Executive Branch and Judicial Branch fees.

Was taken up.

Thereupon, pending third reading of the bill, Senator Cummings moved to amend the Senate proposal of amendment in Sec. 34, effective dates, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) Secs. 30 (tax-advantaged accounts for health expenses), 31 (rulemaking; report), and 34 (effective dates) shall take effect on passage, provided that the Department of Financial Regulation shall adopt its final rule on or before September 1, 2020 regulating entities that administer HRAs, HSAs, or FSAs, or a combination of these.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 529.

House bill entitled:

An act relating to the Transportation Program and miscellaneous changes to laws related to transportation.

Was taken up.

Thereupon, pending third reading of the bill, Senators Sears, Baruth, Benning, Nitka and White moved to amend the Senate proposal of amendment by striking out Sec. 28 in its entirety and inserting in lieu thereof the following:

Sec. 28. 23 V.S.A. § 1203(b) is amended to read:

(b) Only a physician, licensed nurse, medical technician, physician assistant, medical technologist, or laboratory assistant, intermediate or advanced emergency medical technician, or paramedic acting at the request of a law enforcement officer may, at a medical facility, police or fire department, or other safe and clean location as determined by the individual withdrawing blood, withdraw blood for the purpose of determining the presence of alcohol or other another drug. A law enforcement officer, even if trained to withdraw blood, acting in that official capacity may not withdraw blood for the purpose of determining the presence of alcohol or another drug. This limitation does not apply to the taking of a breath sample. A medical facility or business may not charge more than \$75.00 for services rendered when an individual is brought to a facility for the sole purpose of an

evidentiary blood sample or when an emergency medical technician or paramedic draws an evidentiary blood sample.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senators Ashe, Kitchel, Mazza, McNeil and Perchlik moved to amend the Senate proposal of amendment as follows:

First: In Sec. 2, subdivision (8), by striking out the number “\$1,500,000.00” and inserting in lieu thereof the number \$2,000,000.00

Second: In Sec. 34 (vehicle incentive and emissions repair programs), in subsection (c), by striking out subdivision (2) in its entirety and inserting in lieu thereof the following:

(2) provide vouchers through the State’s network of community action agencies and base eligibility for the point-of-sale voucher on the same criteria used for income qualification for weatherization services through the Weatherization Program and eligibility for the point-of-repair vouchers on the same criteria used for income qualification for Low Income Home Energy Assistance Program (LIHEAP) through the State’s Economic Services Division within the Department for Children and Families; and

Third: By striking out Sec. 53 in its entirety and inserting in lieu thereof four new sections to be numbered Secs. 53, 54, 55 and 56 to read as follows:

* * * Renewal of Identification Cards * * *

Sec. 53. 23 V.S.A. § 115(b) is amended to read:

(b) Every identification card shall expire, unless earlier canceled, at midnight on the eve of the fourth birthday anniversary of the date of birth of the applicant cardholder following the date of original issue, and may be renewed every four years upon payment of a \$24.00 fee. A renewed identification card shall expire, unless earlier canceled, at midnight on the eve of the fourth anniversary of the date of birth of the cardholder following the expiration of the card being renewed. At least 30 days before an identification card will expire, the Commissioner shall mail first class to the cardholder or send the cardholder electronically an application to renew the identification card; a cardholder shall be sent the renewal notice by mail unless the cardholder opts in to receive electronic notification. A person born on February 29 shall, for the purposes of this section, be considered as born on March 1.

* * * Renewal of Operator's Licenses * * *

Sec. 54. 23 V.S.A. § 601(b) is amended to read:

(b) All operator's licenses issued under this chapter shall expire, unless earlier cancelled, at midnight on the eve of the second or fourth anniversary of the date of birth of the applicant license holder following the date they were issued of issue. Renewed licenses shall expire at midnight on the eve of the second or fourth anniversary of the date of birth of the license holder following the date the renewed license expired. All junior operator's licenses shall expire, unless earlier cancelled, at midnight on the eve of the second anniversary of the date of birth of the applicant license holder following the date they were issued of issue. A person born on February 29 shall, for the purposes of this section, be considered as born on March 1.

* * * Motor-Assisted Scooter Pilot Program * * *

Sec. 55. MOTOR-ASSISTED SCOOTER PILOT PROGRAM

(a) The cities of Burlington and Montpelier may conduct a motor-assisted scooter pilot program that shall run not longer than October 31, 2019.

(b) During the pilot program motor-assisted scooters, as defined in subsection (c) of this section, shall be regulated in the same way as a motor-assisted bicycle, as defined in 23 V.S.A. § 4(45)(B), and in accordance with 23 V.S.A. § 1136 except that, and notwithstanding 23 V.S.A. § 1137(a), a motor-assisted scooter shall not have a seat and must always be operated in stand-up mode.

(c) As used in this section, "motor-assisted scooter" means any device with not more than two small diameter wheels and a handlebar, that lacks a seat, is designed to operate in stand-up mode only, and has a motor that:

(1) has a power output of not more than 500 watts or .65 horsepower; and

(2) in itself or with human propulsion is capable of producing a top speed of not more than 20 miles per hour on a paved level surface when ridden by an operator who weighs 170 pounds.

* * * Effective Dates * * *

Sec. 56. EFFECTIVE DATES

(a) This section and Secs. 1(b) (act definitions), 12 (BUILD grant), 13 (CRISI grant), 20 (public transit study), 29 (plug-in electric vehicle definition), 30 (electric vehicle supply equipment definition), 33 (net metering), 34 (vehicle incentive and emissions repair programs), 35 (Public Utility Commission report), 36 (Agency of Agriculture, Food and Markets reporting),

39 (PUC jurisdiction), 44 (emissions inspections), 45 (emissions inspections implementation), 46 (vehicle feebate report), 47 (weight-based annual registration report), and 55 (motor-assisted scooter pilot program) shall take effect on passage.

(b) Secs. 31 (weights and measures definition) and 32 (electric vehicle supply equipment definition) shall take effect on the earlier of January 1, 2021 or six months after the National Institute of Standards and Technology adopts code on electric vehicle fueling systems.

(c) Sec. 41 (State vehicle fleet) shall take effect on July 1, 2021.

(d) All other sections shall take effect on July 1, 2019.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senators Ashe, Kitchel, Mazza, McNeil and Perchlik?, Senator Sears moved to amend the proposal of amendment by striking out Secs. 55 and 56 in the *third* proposal of amendment and inserting in lieu thereof new Sec. 55 as follows

* * * Effective Dates * * *

Sec. 55. EFFECTIVE DATES

(a) This section and Secs. 1(b) (act definitions), 12 (BUILD grant), 13 (CRISI grant), 20 (public transit study), 29 (plug-in electric vehicle definition), 30 (electric vehicle supply equipment definition), 33 (net metering), 34 (vehicle incentive and emissions repair programs), 35 (Public Utility Commission report), 36 (Agency of Agriculture, Food and Markets reporting), 39 (PUC jurisdiction), 44 (emissions inspections), 45 (emissions inspections implementation), 46 (vehicle feebate report), and 47 (weight-based annual registration report).

(b) Secs. 31 (weights and measures definition) and 32 (electric vehicle supply equipment definition) shall take effect on the earlier of January 1, 2021 or six months after the National Institute of Standards and Technology adopts code on electric vehicle fueling systems.

Thereupon, Senator Sears requested and was granted leave to withdraw his proposal of amendment.

Thereupon, the recurring question, Shall the Senate proposal of amendment be amended as recommended by Senators Ashe, Kitchel, Mazza, McNeil and Perchlik?, was decided in the affirmative.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

**Proposal of Amendment; Bill Passed in Concurrence with Proposals of
Amendment; Bill Messaged**

H. 542.

House bill entitled:

An act relating to making appropriations for the support of government.

Was taken up.

Thereupon, pending third reading of the bill, Senators Kitchel, Ashe, McCormack, Nitka, Sears, Starr and Westman moved to amend the Senate proposal of amendment as follows:

First: By striking out Sec. B.326 in its entirety and inserting in lieu thereof a new Sec. B.326 to read as follows:

Sec. B.326 Department for children and families - OEO - weatherization assistance

Personal services	326,525
Operating expenses	44,525
Grants	<u>12,038,018</u>
Total	12,409,068
Source of funds	
Special funds	7,812,978
Federal funds	<u>4,596,090</u>
Total	12,409,068

Second: In Sec. C.100, subsection (a), by inserting two new subdivisions to be numbered (6) and (7) to read as follows:

(6) To the Department of Labor: \$70,000 to design a coordinated plan for an integrated postsecondary career and technical education system and to provide services and support for New Americans pursuant to requirements enacted during the 2019 legislative session.

(7) To the Department for Children and Families, Office of Economic Opportunity, Weatherization Assistance: \$300,000.

and in subdivision (b)(2) by striking out the figure “\$2,000,000” and inserting in lieu thereof the figure \$1,700,000

Third: In Sec. C.102 by striking out the figure “4,188,000.00” and inserting in lieu thereof the figure 4,488,000.00

Fourth: By striking out Secs. C.108 and C.109 in their entirety and inserting in lieu thereof new Secs. C. 108 and C.109 to read as follows:

Sec. C.108 2018 (Sp. Sess.) Acts and Resolves No. 11, Sec. B.503 is amended to read:

Sec. B.503 Education - state-placed students

Grants	<u>15,700,000</u>	<u>20,400,000</u>
Total	<u>15,700,000</u>	<u>20,400,000</u>
Source of funds		
Education fund	<u>15,700,000</u>	<u>20,400,000</u>
Total	<u>15,700,000</u>	<u>20,400,000</u>

Sec. C.109 2018 (Sp. Sess.) Acts and Resolves No. 11, Sec. B.516 as amended by 2019 Acts and Resolves No. 6, Sec. 40 is further amended to read:

Sec. 40. 2018 (Sp. Sess.) Acts and Resolves No. 11, Sec. B.516 is amended to read:

Sec. B.516 Total general education

Source of funds

General fund	136,968,810	136,968,810
Special funds	19,483,091	19,483,091
Tobacco fund	750,388	750,388
Education fund	<u>1,650,519,334</u>	<u>1,655,219,334</u>
Federal funds	138,281,079	138,281,079
Global Commitment fund	260,000	260,000
Interdepartmental transfers	4,204,714	4,204,714
Pension trust funds	<u>7,781,379</u>	<u>7,781,379</u>
Total	<u>1,958,248,795</u>	<u>1,962,948,748</u>

Fifth: By striking out Sec. E.323.1 in its entirety and inserting in lieu thereof a new Sec. E.323.1 to read as follows:

Sec. E.323.1 33 V.S.A. § 1103 is amended to read:

§ 1103. ELIGIBILITY AND BENEFIT LEVELS

* * *

(c) The Commissioner shall adopt rules for the determination of eligibility for the Reach Up program and benefit levels for all participating families that include the following provisions:

* * *

(9) The amount of ~~\$115.00~~ \$58.00 of the Supplemental Security Income payment received by a parent excluding payments received on behalf of a child shall count toward the determination of the amount of the family's financial assistance grant.

* * *

Sixth: By inserting a new section to be numbered Sec. E.333 to read as follows:

Sec. E.333 DEVELOPMENTAL DISABILITIES SERVICE PAYMENT
REFORM UPDATE

(a) The Agency of Human Services shall submit an update to the House Committees on Appropriations and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare on the progress made on the developmental disability service delivery and payment reform model on or before January 15, 2020. The update will provide information on decisions made to date on the proposed model for developmental disabilities payment and service delivery reform, including information regarding:

(1) anticipated costs to both providers and the state of any potential changes including changes in the assessments process and any identified funding strategies;

(2) the plan to use a standardized assessment tool;

(3) how the proposed model addresses individualized services and community inclusion;

(4) stakeholder engagement including how their feedback was incorporated into the plan;

(5) a description of how the model works in relation to value-based payment and sustainability of the system and its workforce;

(6) how the model covers the costs of high needs individuals;

(7) the continuation of person-centered care planning and services;

(8) maintaining choice of provider, service management, and service options; and

(9) how it will hold providers accountable for service expenditures and individual recipient outcomes.

Seventh: By striking out Sec. E.335.2 in its entirety and inserting in lieu thereof a new Sec. E.335.2 to read as follows:

Sec. E.335.2 COMMUNITY WORK CREW PROGRAM RESTRUCTURE

(a) On or before October 15, 2019, the Department of Corrections shall report to the House and Senate Committees on Appropriations and on Judiciary regarding whether the Department should contract with local community justice programs to oversee the work crew sentence requirements of any individual with work crew obligations under the Department's

supervision. The report shall consider the cost and public safety implications, as well as any anticipated effect on recidivism rates, of any such contractual approach to work crew supervision. This report is timely for the General Assembly because of the relatively small number of offenders with work crew obligations, the significant number of Department staff currently tasked with work crew oversight, and the opportunity to better partner with state-supported community and restorative justice programs.

Eighth: In Sec. E.338, by adding a new subsection (b) to read as follows:

(b) The Department shall allocate \$20,000 of community program funding to the Caring Dads program in fiscal year 2020.

Ninth: By inserting a new section to be numbered Sec. E.338.2 to read as follows:

Sec. E.338.2 2014 Acts and Resolves No. 131, Sec. 135, as amended by 2015 Acts and Resolves No. 4, Sec. 71 and 2017 Acts and Resolves No. 85, Sec. E.338.2 and 2018 Acts and Resolves No.87, Sec. 51, is further amended to read:

Sec. 135. ~~EFFECTIVE DATES~~

~~This act shall take effect on passage, except that Secs. 118a and 118b (amending 18 V.S.A. § 4808 and adding 18 V.S.A. § 4809) shall take effect on July 1, 2021. [Repealed.]~~

Tenth: By striking out Sec. E.903 in its entirety and inserting in lieu thereof a new Sec. E.903 to read as follows:

Sec. E.903 Transportation – program development

(a) Of the Transportation Funds appropriated in Sec. B.903 of this act, \$300,000 shall be allocated for an Electric Vehicle purchase or lease incentive program. This funding allocation in combination with the appropriation in Sec. C.100(b)(2) of this act provides a total funding amount of \$2,000,000 for an EV incentive program.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senators Lyons and Sears moved to amend the Senate proposal of amendment by striking out Sec. E.338.1, 28 V.S.A. § 801b, in its entirety and inserting in lieu thereof three new sections to be Secs. E.338.1–E.338.3 to read as follows:

Sec. E.338.1 28 V.S.A. § 801 is amended to read:

§ 801. MEDICAL CARE OF INMATES

* * *

(e)(1) Except as otherwise provided in this subsection, an inmate who is admitted to a correctional facility while under the medical care of a licensed physician, a licensed physician assistant, or a licensed advanced practice registered nurse and who is taking medication at the time of admission pursuant to a valid prescription as verified by the inmate's pharmacy of record, primary care provider, other licensed care provider, or as verified by the Vermont Prescription Monitoring System or other prescription monitoring or information system, including buprenorphine, methadone, or other medication prescribed in the course of medication-assisted treatment, shall be entitled to continue that medication and to be provided that medication by the Department pending an evaluation by a licensed physician, a licensed physician assistant, or a licensed advanced practice registered nurse.

(2)(A) Notwithstanding subdivision (1) of this subsection, the Department may defer provision of a validly prescribed medication in accordance with this subsection if, in the clinical judgment of a licensed physician, a physician assistant, or an advanced practice registered nurse, it is not medically necessary to continue the medication at that time.

(B) Notwithstanding subdivision (1) of this subsection, an inmate taking medication prescribed in the course of medication-assisted treatment shall attend the counseling and behavioral therapy components of medication-assisted treatment.

* * *

Sec. E.338.2 28 V.S.A. § 801b is amended to read:

§ 801b. MEDICATION-ASSISTED TREATMENT IN CORRECTIONAL FACILITIES

(a) If an inmate receiving medication-assisted treatment prior to entering the correctional facility continues to receive medication prescribed in the course of medication-assisted treatment pursuant to section 801 of this title, the inmate shall be authorized to receive that medication for as long as medically necessary. The inmate shall attend the counseling and behavioral therapy components of medication-assisted treatment.

(b)(1) If at any time an inmate screens positive as having an opioid use disorder, the inmate may elect to commence buprenorphine-specific medication-assisted treatment if it is deemed medically necessary by a provider authorized to prescribe buprenorphine. The inmate shall be authorized to receive the medication as soon as possible and for as long as medically necessary. The inmate shall attend the counseling and behavioral therapy components of medication-assisted treatment.

(2) Nothing in this subsection shall prevent an inmate who commences medication-assisted treatment while in a correctional facility from transferring from buprenorphine to methadone if:

(A) methadone is deemed medically necessary by a provider authorized to prescribe methadone; and

(B) the inmate elects to commence methadone as recommended by a provider authorized to prescribe methadone.

(c) The licensed practitioner who makes the clinical judgment to discontinue a medication shall cause the reason for the discontinuance to be entered into the inmate's medical record, specifically stating the reason for the discontinuance. The inmate shall be provided, both orally and in writing, with a specific explanation of the decision to discontinue the medication and with notice of the right to have his or her community-based prescriber notified of the decision. If the inmate provides signed authorization, the Department shall notify the community-based prescriber in writing of the decision to discontinue the medication.

(d)(1) As part of reentry planning, the Department shall commence medication-assisted treatment prior to an inmate's release if:

(A) the inmate screens positive for an opioid use disorder;

(B) medication-assisted treatment is medically necessary; ~~and~~

(C) the inmate elects to commence medication-assisted treatment; and

(D) the inmate agrees to attend the counseling and behavioral therapy components of medication-assisted treatment.

(2) If medication-assisted treatment is indicated and despite best efforts induction is not possible prior to release, the Department shall ensure comprehensive care coordination with a community-based provider.

(e) ~~Any counseling or~~ Counseling and behavioral therapies shall be provided in conjunction with the use of medication for all medication-assisted treatment shall be medically necessary.

Sec. E.338.3 CORRECTIONS HEALTH CARE; REPORTS

(a) On or before November 15, 2019, the Department of Corrections shall provide an interim report to the Joint Legislative Justice Oversight Committee regarding:

(1) the Department's current and planned future efforts, in consultation with the Agency of Human Services and the other departments in the Agency,

to integrate health care services delivered in correctional facilities with Vermont's broader health care reform initiatives;

(2) the Department's implementation of the requirement pursuant to Secs. E.338.1 and E.338.2 of this act that counseling and behavioral therapy services be provided as an essential element of medication-assisted treatment provided in correctional, as well as community, settings; and

(3) the Department's current and planned future efforts to increase the use of local health care professionals and hospitals and to reduce its reliance on traveling nurses and other temporary providers.

(b) On or before January 15, 2020, the Department shall provide a final report on the topics described in subdivisions (a)(1)–(3) of this section to the House Committees on Appropriations, on Corrections and Institutions, on Health Care, and on Human Services and the Senate Committees on Appropriations, on Health and Welfare, on Institutions, and on Judiciary.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Committees of Conference Appointed

S. 40.

An act relating to testing and remediation of lead in the drinking water of schools and child care facilities.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Baruth
Senator Ingram
Senator Hardy

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

S. 95.

An act relating to municipal utility capital investment.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator MacDonald
Senator Pearson
Senator Balint

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 511.

An act relating to criminal statutes of limitations.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Benning
Senator Nitka
Senator Sears

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 40, S. 95, H. 13, H. 47, H. 57, H. 205, H. 511, H. 518, H. 527, H. 529, H. 542.

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Thursday, May 9, 2019.